



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles
CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
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"To Enrich Lives Through Effective And Caring Service"

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August 20, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS:
MARTIN LUTHER KING, JR. MEDICAL CENTER
INPATIENT TOWER RENOVATION PROJECT
APPROVE REVISED PROJECT BUDGET APPROPRIATION ADJUSTMENT, SCHEDULE,
VARIOUS CONSTRUCTION CHANGE ORDERS, AND SUPPLEMENTAL AGREEMENT
SPECS. 7055; CAPITAL PROJECT NO. 88945
(SECOND DISTRICT) (4 VOTES)**

SUBJECT

The recommended actions are to approve change orders to resolve disputed issues with Hensel Phelps Construction Co. in connection with the Martin Luther King, Jr. Inpatient Tower Renovation Project.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve an increase in the project budget from \$252,430,000 to \$284,430,000 for the Martin Luther King, Jr. Inpatient Tower Renovation project.
2. Approve an Appropriation Adjustment for the Martin Luther King, Jr. Inpatient Tower Renovation project in the amount of \$32,000,000, offset with tax-exempt commercial paper.
3. Approve and authorize the Director of Public Works or her designee to execute a change order with Hensel Phelps Construction Co. to resolve disputed issues involving unforeseen conditions impacts on the project for a \$16,000,000 not-to-exceed amount.
4. Approve and authorize the Director of Public Works or her designee to execute a change order with Hensel Phelps Construction Co. to resolve disputed issues involving design-related changes for

an \$8,000,000 not-to-exceed amount.

5. Authorize the Director of Public Works or her designee to execute a supplemental agreement to Contract PW-13409 with MLK Partners, a Joint Venture, to provide additional project/construction management services for the Martin Luther King, Jr. Inpatient Tower Renovation project for a \$350,000 not-to-exceed amount.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended actions will revise the project budget of the Martin Luther King, Jr. Medical Center (MLK) Inpatient Tower (IPT) Renovation project, approve and allow the Department of Public Works to execute two separate change orders with Hensel Phelps Construction Co., and provide for additional project/construction management and document/project controls to support the MLK IPT project through construction completion.

Revised IPT Renovation Project Budget

On August 18, 2009, the Board established Capital Project No. 88945 for the MLK IPT project. On May 14, 2013, the Board approved the current project budget of \$252,430,000. In May 2013, we informed the Board that there were outstanding change order requests related to delay and impact costs, and that we would return to the Board to supplement the project budget after we had an opportunity to evaluate and negotiate the disputed change orders issues. Due to project delays allegedly caused largely by unforeseen site conditions, the substantial completion date is delayed from August 31, 2013, to October 31, 2013. The extended duration of the project will also require additional monies for the design-builder and consultant services, such as inspection/testing services and construction management services to support the MLK IPT project.

We are recommending that the Board approve the revised project budget of \$284,430,000 for the MLK IPT project. The current budget request includes \$24,000,000 to fund the currently recommended change orders and an additional \$8,000,000 for other direct cost changes which may be necessary, as well as job order contracting, consultant services and inspection. The Project Budget Summary is included in Attachment A.

Construction Change Orders

Unforeseen Conditions Impacts

Hensel Phelps has asserted that they have experienced significant additional costs on the project due to "indirect" or impact costs resulting from numerous unforeseen field conditions encountered during construction. Hensel Phelps has alleged that their efforts to address unforeseen conditions extended the project duration and made construction activities less efficient, thereby impacting their overall costs to deliver the project.

At the beginning of the design process the lower three floors of the IPT Building were occupied, which required building new spaces elsewhere on campus, relocating existing clinical functions out of the work area, and then completing selective demolition in order to expose as many existing conditions as possible prior to bidding. Therefore, despite a very aggressive effort on the part of the project team to mitigate the risk of unforeseen conditions throughout the project site, including performing more than \$30 million of site preparation work using job order contracts, many of the existing conditions in the lower three floors of the IPT Building were not discovered prior to bid. Also,

in order to save both cost and time, portions of the lower floors, including the radiology suite and the intensive care units were planned to be protected in place, with only minimal renovation, instead of being demolished and replaced. While this strategy had the potential of saving significant cost, numerous unforeseen conditions were encountered in these areas as well. For example, numerous conflicts with utilities and other existing improvements were encountered while installing structural reinforcement in the ceiling space above the intensive care unit.

Through a negotiation process, Public Works and Hensel Phelps have reached a proposed resolution of all of Hensel Phelps' requests for "indirect costs," including delay and related impacts, resulting from unforeseen conditions, which have been or may be encountered on the project for a \$16,000,000 not-to-exceed amount. This change order addresses all of Hensel Phelps' claims for indirect costs, including, but not limited to, trade stacking, dilution of supervision, site access, logistics impacts, trade damage, extended general conditions, delay, disruption, insurance premium, overtime, etc. To this point, the County has paid only for direct costs on certain previously-executed change orders. This recommended change order seeks to resolve all indirect costs for all previous change orders and any future change orders through the end of the project. Any remaining change orders on the project will be limited to direct costs only. We anticipate that there will be some future direct cost change orders that will exceed Public Works' delegated authority and require Board approval.

As part of this change order, the contractual date for substantial completion is being shifted from March 15, 2013, to October 31, 2013.

Design-Related Changes

During the preparation of the scoping documents for the project, major portions of the IPT Building, as well as portions of the Main Lobby and Admitting building, Hospital Support Building, and Central Plants 1 and 2 were occupied and being used to serve the campus. This impacted the scoping architect's ability to fully evaluate and document many of the existing conditions within these spaces. Also, because of an extremely compressed design schedule, some of the documentation of the existing conditions was not completed at the time of bid.

Following turnover of the buildings, the design-builder, Hensel Phelps, immediately proceeded with completing the design, permitting, and construction process. As Hensel Phelps identified field conditions that did not match the design scoping documents, they claimed to have incurred significant impacts in their planned design effort. Hensel Phelps has asserted that additional design effort was required, and that the design schedule extended staffing requirements on the part of the design-builder and its subcontractors and consultants.

Through a negotiation process, Public Works and Hensel Phelps have reached a proposed resolution of all of Hensel Phelps' change order requests related to design and redesign issues, late delivery of design documents, and any related impacts for an \$8,000,000 not-to-exceed amount. This change order addresses direct costs and indirect impacts. The change order will cover all design-related claims and alleged damages, including, but not limited to, design staff, trade damage, extended general conditions, delay, disruption, insurance premium, overtime, etc.

Consultant Services Agreement

Due to the extended project duration identified in this letter, additional consultant services, such as material testing, project construction, and document control are required. We are recommending approval of the following supplemental consultant services agreement:

On July 6, 2010, the Board awarded a consultant services agreement to MLK Partners, a Joint Venture, to provide project/construction management services for the MLK IPT and Multi-Service Ambulatory Care Center projects for a \$10,000,000 not-to-exceed amount. On May 14, 2013, the Board authorized a supplemental agreement that increased the contract amount by \$3,080,000 for additional services required for the MLK Multi-Service Ambulatory Care Center and IPT projects. Since that time, it has been determined that additional time will be required to complete the project, and, therefore, the project will require additional support by the project management staff.

We are recommending approval of this supplemental agreement for a \$350,000 not-to-exceed amount to provide project/construction management through project completion. Approval of this supplemental agreement will increase the total fee amount of MLK Partners from \$13,080,000 to \$13,430,000.

Green Building/Sustainable Design Program

The MLK IPT project supports the Board's policy for Green Building/Sustainable Design Program. The new Ancillary Building, which is part of the MLK IPT project, will include sustainable design features for certification at a Silver or higher level under the United States Green Building Council Leadership in Energy and Environmental Design for new building construction. The project includes design features to optimize energy efficiency, such as replacing and/or upgrading the mechanical, electrical, and plumbing systems, use of recycled and low-gas emitting materials, and use of alternative transportation methods.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) by investing in public health infrastructure to enhance the safety of patients and staff. Completion of this project will provide much needed improvements to the facility and for the residents of the County.

FISCAL IMPACT/FINANCING

Approval of the Appropriation Adjustment (Attachment B) will increase the project budget of the MLK IPT project by \$32,000,000 from the \$252,430,000 previously approved by the Board to \$284,430,000. The current budget requests \$24,000,000 to fund the currently recommended change orders, and \$8,000,000 as a contingency for other possible change orders, job order contracting, and support services.

As previously approved by the Board, the project is currently funded through the issuance of tax-exempt commercial paper, but will ultimately be financed with proceeds from the issuance of long-term, tax exempt bonds. It is anticipated that the long-term bonds will be issued following the project's completion. The CEO and Treasurer and Tax Collector will return with final recommendations on the size, structure, and timing of the long-term bond issue, including an estimate of annual debt service payments and funding sources. The Project Schedule and Budget Summary are included in Attachment A.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The recommended supplemental agreement will be in the form previously reviewed and approved by County Counsel. These agreement contain terms and conditions supporting the Board's ordinances,

policies, and programs, including, but not limited to, County's Greater Avenues for Independence (GAIN) and General Relief Opportunities for Work (GROW) Programs, Board Policy No. 5.050; Contract Language to Assist in Placement of Displaced County Workers, Board Policy No. 5.110; Reporting of Improper Solicitations, Board Policy No. 5.060; Notice to Contract Employees of Newborn Abandonment Law (Safely Surrendered Baby Law), Board Policy No. 5.135; Contractor Employee Jury Service Program, Los Angeles County Code, Chapter 2.203; Notice to Employees Regarding the Federal Earned Income Credit (Federal Income Tax Law, Internal Revenue Service Notice 1015); Contractor Responsibility and Debarment, Los Angeles County Code, Chapter 2.202; the Los Angeles County's Child Support Compliance Program, Los Angeles County Code, Chapter 2.200; and the standard Board-directed clauses that provide for contract termination or renegotiation.

Section 20137 of the Public Contract Code allows the Board, with a four-fifths vote, to authorize an individual change order to a construction contract that is 10 percent or less of the original contract amount without having to obtain bids for the work. The two separate change orders hereunder are both within the statutory threshold.

ENVIRONMENTAL DOCUMENTATION

On August 18, 2009, the Board established the MLK IPT project, and found it to be categorically exempt from the California Environmental Quality Act (CEQA) under Sections 15301(d), 15302(a), and 15303 (c) and (f), and that it was analyzed in accordance with the specifications of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the recommended change orders and other recommended actions are within the scope of the previously approved categorical exemption for the MLK IPT project. Approval of the supplemental agreement for additional project/construction management services is also not a project under

Section 15378(b) of the CEQA Guidelines because the proposed actions are administrative activities of government which will not result in direct or indirect physical changes to the environment.

CONTRACTING PROCESS

Hensel Phelps' Change Orders

On April 19, 2011, the Board awarded a design-build contract to Hensel Phelps for a total amount of \$165,100,000. To date, the project is approximately 90 percent complete and the County has executed 93 construction change orders increasing the total contract amount to \$180,466,770.

The two change orders recommended in this action will increase the contract amount by an aggregate amount of \$24,000,000 for a revised total contract amount of \$204,466,770.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approving the recommended actions will have no impact on current County services.

CONCLUSION

Please return one adopted copy of this Board letter to the Chief Executive Office, Capital Projects Division; the Department of Health Services, Capital Projects Division; and the Department of Public

The Honorable Board of Supervisors

8/20/2013

Page 6

Works, Project Management Division I.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. T. Fujioka', with a long horizontal line extending to the right.

WILLIAM T FUJIOKA

Chief Executive Officer

WTF:RLR:DJT

SW:TH:mda

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Public Works

ATTACHMENT A

**DEPARTMENT OF PUBLIC WORKS:
MARTIN LUTHER KING, JR. MEDICAL CENTER
INPATIENT TOWER RENOVATION PROJECT
APPROVE REVISED PROJECT BUDGET APPROPRIATION ADJUSTMENT,
SCHEDULE, VARIOUS CONSTRUCTION CHANGE ORDERS, AND
SUPPLEMENTAL AGREEMENT
SPECS. 7055; CAPITAL PROJECT NO. 88945**

I. PROJECT SCHEDULE

Project Activity	Board Approved Completion Date	Revised Completion Date
Environmental Impact Report	10/15/11*	10/15/11*
C.P. 88945		
MAKE-READY		
Programming	09/18/09*	09/18/09*
Design	04/29/10*	04/29/10*
Jurisdictional Agency Approval	07/27/10*	07/27/10*
Construction Bid and Award (JOC)	08/19/10*	08/19/10*
Construction		
Substantial Completion	11/01/11	11/01/11*
Acceptance	12/01/11	12/01/11*
INPATIENT TOWER RENOVATION AND SUPPORT SPACE		
Programming	09/18/09*	09/18/09*
Design	03/31/11*	By Design-Builder
Jurisdictional Agency Approval	06/31/11*	06/31/11*
Award Design-build	03/01/11*	03/31/11*
Construction		
Substantial Completion	08/31/13	10/31/13
Acceptance	12/30/13	01/31/14
Building Occupancy	TBD	TBD

*Indicates actual date.

II. PROJECT BUDGET SUMMARY MLK IPT AND MAKE-READY (C.P. 88945)

Budget Category	Previously Approved Budget	Impact of this Action	Current Project Budget
Land Acquisition	\$ 0	\$ 0	\$ 0
Construction			
Design-Build Contract	\$148,684,000	\$ 0	\$ 148,684,000
Job Order Contract	30,659,000	2,300,000	32,959,000
Change Orders Contingency	19,301,000	28,100,000	47,401,000
Builder's Risk Insurance	570,000	0	570,000
Utility Fees	150,000	0	150,000
Proposer Stipends	400,000	0	400,000
DPW Job Order Contract Management	645,000	0	645,000
Construction Consultants	0	0	0
Telecomm Equipment - Affixed to Building	0	0	0
Civic Arts	0	0	0
Subtotal	\$200,409,000	\$30,400,000	\$ 230,809,000
Programming/Development	\$ 0	\$ 0	\$ 0
Plans and Specifications			
Architect/Engineer Fee	\$ 21,075,000	\$ 0	\$ 21,075,000
Design Contingency	0	0	0
Subtotal	\$ 21,075,000	\$ 0	\$ 21,075,000
Consultant Services			
Site Planning	\$ 0	\$ 0	\$ 0
Hazardous Materials	256,000	0	256,000
Geotech/Soils Report and Soils Testing	1,000,000	0	1,000,000
Material Testing	3,000,000	400,000	3,400,000
Peer Review Services	570,000	0	570,000
Inspection Services	2,800,000	600,000	3,400,000
Topographic Surveys	60,000	0	60,000
Construction Management	9,200,000	200,000	9,400,000
Document and Project Controls	3,900,000	0	3,900,000
Labor/Outreach/Local Worker Hiring Program	665,000	0	665,000
Move Management (Move Manager Only)	0	0	0
Equipment Planning	0	0	0
Consultant Contingency	0	0	0
Subtotal	\$ 21,451,000	\$1,200,000	\$ 22,651,000
Miscellaneous Expenditures	\$ 75,000	\$ 0	\$ 75,000
Jurisdictional Review/Plan Check/Permit	\$ 3,425,000	\$ 400,000	\$ 3,825,000
County Services			
Code Compliance Inspection	\$ 205,000	\$ 0	\$ 205,000
Quality Control Inspection	0	0	0
Design Review	48,000	0	48,000
Design Services	0	0	0
Contract Administration	390,000	0	390,000
Project Management	550,000	0	550,000
Project Management Support Services	4,360,000	0	4,360,000
ISD Job Order Contract Management	0	0	0
DPW Job Order Contract Management	0	0	0
ID ITS Communications	175,000	0	175,000
Project Technical Support	52,000	0	52,000
ISD Countywide Contract Compliance Section	215,000	0	215,000
County Counsel	0	0	0
Other - Contract Management - LWHP	0	0	0
Other-Contingency	0	0	0
Subtotal	\$ 5,995,000	\$ 0	\$ 5,995,000
TOTAL	\$252,430,000	\$32,000,000	\$ 284,430,000

COUNTY OF LOS ANGELES
REQUEST FOR APPROPRIATION ADJUSTMENT
DEPARTMENT OF CHIEF EXECUTIVE OFFICE

DEPT'S. NO. 060

August 20, 2013

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR**FY 2013-14****4 - VOTES****SOURCES**

HEALTH FACILITIES CAPITAL IMPROVEMENT FUND
MLK Inpatient Tower Renovation
J19-CP-94-9276-65057-88945
Commercial Paper Proceeds CP
INCREASE REVENUE \$32,000,000

USES

HEALTH FACILITIES CAPITAL IMPROVEMENT FUND
MLK Inpatient Tower Renovation
J19-CP-94-6014-65057-88945
Capital Assets – Building & Improvements
Increase Appropriation \$32,000,000

SOURCES TOTAL: \$

32,000,000

USES TOTAL: \$

32,000,000

JUSTIFICATION

The appropriation adjustment is necessary to fund the MLK Inpatient Tower Renovation.


 AUTHORIZED SIGNATURE SABRA WHITE

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED)


 REFERRED TO THE CHIEF
EXECUTIVE OFFICER FOR --

☐ ACTION

☒ RECOMMENDATION

AUDITOR-CONTROLLER

BY


 August 7 2013


B.A. NO. 003

☒ APPROVED AS REQUESTED

☐ APPROVED AS REVISED

CHIEF EXECUTIVE OFFICER

BY


 August 9 2013

SEND 6 COPIES TO THE AUDITOR-CONTROLLER